Council Agenda # ____ Meeting of July 11, 2006



Staff Report

INTRODUCTION OF AMENDMENTS TO CHAPTER 15, ARTICLE VIII OF THE MUNICIPAL CODE REGARDING NOISE CONTROL

Honorable Mayor and Council Members:

Summary

At the March 14, 2006 Council meeting, several issues were raised concerning the proposed noise ordinance. At that time, Council elected to defer the matter until further research by staff could be concluded. Staff is returning at this time to present the proposed ordinance for its first reading.

Background

At the July 26, 2005 City Council meeting, Council directed staff to assemble a subcommittee to prepare a draft noise ordinance. The subcommittee consisted of members of the City Council, Planning Commission and staff members of the City Managers office, Police Department, and Community Development Department. The subcommittee reviewed other agencies current noises ordinances to determine which would best achieve the balance between the maintenance of quality of life values for Belmont residents and the need for use of noise generating equipment to maintain commercial businesses and residential property.

At the February 14, 2006 Council study session, Council provided feedback and made minor changes to proposed ordinance language. When staff returned to Council at the March 14, 2006 meeting to discuss the proposed ordinance, several issues were raised that required further research.

Staff has conducted the proposed research and using comments made at the March 14, 2006 meeting, developed a draft noise ordinance that is being presented at tonight's meeting.

Discussion

While researching the issues that were raised at the March 14, 2006 Council meeting, the noise subcommittee concluded that it would be advisable to organize all existing City and State regulations governing noise control along with current Conditional Use Permits regulating pertinent businesses in the city.

Staff has collected and reviewed all of this material and met with the noise subcommittee on April 24, 2006 and June 29, 2006. The subcommittee discussed which direction should be taken to develop an ordinance that will meet the expectations of the community while protecting the need of businesses.

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While researching current regulations and codes related to the noise ordinance, staff determined that many of the regulations that were in the originally proposed noised ordinance that was presented during the March 14, 2006 meeting were regulated by other sections in the Municipal Code, Zoning Ordinance, State regulations or Conditional Use Permits (CUP).

The following are current laws that the City of Belmont has at its disposal to regulate noise.

Belmont Municipal Code

- 1. Municipal Code Section 5-32
 - a. Regulates noise caused by livestock or other animals
- 2. Municipal Code Section 12-26, Category VIII
 - a. Requires any operator of any vehicle equipped with music or musical device, loudspeaker or other device for attracting attention to obtain a permit prior to operation
- 3. Municipal Code Section 14-9
 - a. Regulates the excessive acceleration of vehicles (Also covered by the California Vehicle Code)
- 4. Municipal Code Section 15-6
 - a. Regulates rock crushing
- 5. Municipal Code Section 15-7
 - a. Regulates fireworks and explosives
- 6. Municipal Code Section 15-8
 - a. Regulates blasting
- 7. Municipal Code Section 15-90
 - a. Regulates loud social gatherings.
- 8. Municipal Code Section 15-95
 - a. Regulates automotive repair in residential districts
- 9. **Municipal Code Section 15-100 15-105**
 - a. Regulates times for construction activities and gas powered maintenance equipment
- 10. Municipal Code Section 18-54
 - a. Regulates audible alarms to prevent them from emitting sounds greater than 80 decibels

Belmont Zoning Ordinance

- 1. Zoning Ordinance Section 5.2.2 (f) C-1 commercially zoned district
 - b. Requires a CUP for any business which uses exterior mounted refrigeration or mechanical equipment within 100 feet of an area designated for residential use on the general plan.
- 2. Zoning Ordinance Section 5.2.2 (j) C-1 commercially zoned districts
 - c. Requires a CUP for any business which any use is conducted outside the building.
- 3. Zoning Ordinance Section 5.2.2 (k) C-1 commercially zoned districts
 - d. Requires that all businesses must operate between the hours of 7 a.m. or 11 p.m. Any use outside these hours require a CUP

4. Zoning Ordinance Section 5.4.2(d) C-3 commercially zoned districts

e. Requires automotive washing businesses to obtain a CUP

5. Zoning Ordinance Section 5.4.2(i) C-3 commercially zoned districts

f. Requires machinery sales and service to be conducted inside an enclosed building

6. Zoning Ordinance Section 5.4.2(k) C-3 commercially zoned districts

g. Requires a CUP for any vehicle repair shop except for body repair and paint

7. Zoning Ordinance Section 5.4.2(1) C-3 commercially zoned districts

h. Requires a CUP for any vehicle towing operation

8. Zoning Ordinance Section 5.4.3

- i. Requires that all vehicle repair shops shall be permitted when located within 500 feet away from a similar use
- j. Requires that they be only operate between the hours of 6 a.m. and 9 p.m. Monday through Saturday and 12 noon and 6 p.m. on Sundays. All signs on such sites shall not be lighted between the hours of 9 p.m. and 6 a.m.
- k. Vehicle tow operations must only operate between the hours of 6 a.m. to 9 p.m. Monday through Saturday and 12 noon to 6 p.m. on Sundays.

9. Zoning Ordinance Section 8.5

1. Regulates the location of loading berths for vehicles that are over two tons to not be located within 50 feet of any residential property unless completely enclosed by building walls.

10. Zoning Ordinance Section 11

m. Allows the City to require a CUP for specific businesses in specific zoning districts to regulate their use, and hours of operation.

11. Zoning Ordinance Section 19.2 (c)

a. Regulates Service Stations limiting their hours of operation to 6 a.m. to 11 p.m.

12. Zoning Ordinance Section 19.2 (e)

a. Requires noise from service stations to be muffled so as not to become objectionable.

California Penal Code

1. California Penal Code Section 302

b. Regulates the disturbance of a religious gathering

2. California Penal Code Section 415

c. Regulates the disturbance of another person by using loud and unreasonable noises

California Vehicle Code

1. California Vehicle Code 27007

d. Regulates loud sound systems from vehicles

2. California Vehicle Code Section 27200

e. Regulates the sales and registration of vehicles that make excessive noises at 50 feet.

3. California Vehicle Code Section 38365

f. Regulates vehicles with loud mufflers or exhaust systems

In addition to the above referenced laws, the City also has numerous active Conditional Use Permits which regulate hours of operation, deliveries and other activities for specific businesses and locations which could cause excessive noise. Below is a sample list of approved uses in Belmont and what their associated (noise-related) conditions are:

1. Safeway, 1100 Ralston Ave; Approved 1994

- a. Deliveries by large trucks shall only occur between the hours of 9 p.m. and 6 a.m.
- b. Proposed construction of the new building shall take place between the hours of 8 a.m. to 5:30 .pm., Monday through Friday only.
- c. The gates adjacent to the delivery area shall remain closed at all times except during delivery times.

2. Safeway, 2100 Ralston Ave; Approved 1986

- a. No deliveries between the hours of 11 p.m. and 8 a.m.
- b. Safeway management shall monitor exterior noise to keep it to a minimum
- c. No sale of alcoholic beverages between the hours of 11 p.m. and 8 a.m.

3. Dryclean City, 2040 Ralston Ave; Approved 1988

- a. The business shall operate only between the hours of 7 a.m. to 7 p.m. Monday through Friday, 8 a.m. to 6 p.m. on Saturday, closed on Sundays.
- b. The business shall monitor the odors and vapors produced from the chemicals used and shall monitor the steam from the boilers and noise which could present a nuisance to nearby residents. This permit shall be revoked if dry cleaner activity operates in such a manner to create a nuisance to surrounding properties.

4. Arco, 470 Ralston Ave; Approved 2001

- a. The construction shall only take place between the hours as prescribed by the Municipal Code.
- b. All gasoline powered equipment shall be equipped with a muffler or baffling system as originally provided by the manufacturer.

5. Charles Armstrong School, 1405 Solana Dr; Approved in 1988 & 2002

- a. The applicant shall instruct employees to park on-site. Quiet zone signs shall be installed at appropriate locations within the school parking lot, the wording and location of the signs shall be subject to the review of the Planning director. Said signs shall be installed within 60 days
- b. Use of the school shall be permitted strictly for school activities between 7 a.m. and 9 p.m. Monday through Friday, except the gardener's hours shall be limited to 9 a.m. to 5 p.m., Monday through Friday. The applicant shall monitor all activities to minimize negative impacts (e.g. noise, traffic, litter and loitering) on surrounding properties. The applicant shall be responsible for picking up any excessive litter resulting from the school's use of the adjacent city park and shall protect the park improvements from damage from school activities
- c. The applicant shall arrange for refuse/recycling pick-up to occur between Mondays through Friday, 7:00 am to 5:00 pm.
- d. The applicant shall limit the gardener's hours to Monday through Friday, 9:00 am to 5:00 pm.

- e. The applicant shall monitor all activities to minimize negative impacts (e.g., noise, traffic, litter and loitering) on surrounding residential properties
- f. The school shall prepare and mail a calendar of special events on a quarterly basis to all property owners within 300 feet of the school property in order to notify neighbors of school events

6. Notre Dame De Namur University, 1500 Ralston Ave; Athletic field improvements; Approved in 2005

- a. The athletic field will be used for the University's Commencement ceremony which occurs during the month of May. The athletic field will also be used for Youth Sports Camps which occur during the months of May, June, and July. Use of the athletic field for Youth Sports Camps and by NDNU and Notre Dame High School sports teams for both practices and games shall adhere to the following seasonal schedule and associated practice/game times:
 - 1. NDNU and Notre Dame High School practices will occur only on
 - a. Mondays through Fridays during the following months as set forth below:
 - 1. August: 10 a.m. dusk
 - 2. September, October, and November: 8:00 a.m. dusk
 - 3. December 3:00 p.m. dusk (High School only)
 - 4. January April: 8:00 a.m. dusk
 - b. If games are to be held on both weekdays and weekends, such games shall generally occur during the following months/start times:
 - Weekends All games shall commence no earlier than 11:00 a.m. and conclude no later than dusk (Mid-August to Mid May-NDNU Athletics). Such games shall last approximately 2 hours.
 - 2. Weekends 11:00 a.m. and 12:30 p.m. (if two games are scheduled back to back); Weekdays 3:00 p.m. and 4:15 p.m. (if two games are scheduled back to back)(Mid-November to Mid-February ND High School). Such games shall last approximately 1.5 hours.
 - c. Youth Sports Camps will occur only on Mondays through Sundays during the following months as set forth below:
 - 1. May, June, and July: 8:00 a.m. dusk
- b. The University athletic field personnel shall make every effort to limit the use of bullhorns in association with practices and games which take place on the athletic field. Use of bullhorns by athletic field personnel shall be kept to a minimum as necessary during the course of the game to facilitate player substitution and other game rule requirements. The University shall prohibit the use of bullhorns, air horns and other loud noise-making devices and equipment by spectators during practices and games. Further, the University shall provide an announcement prior to the start of games, advising both home and visiting teams that the use of such noise-making devices and equipment is prohibited by spectators.
- c. The applicant shall provide the results of an acoustical study to the City which assesses the placement and noise generating capacity of sound system

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equipment associated with use of the athletic field, prior to the issuance of a Certificate of Occupancy for the field reconstruction project. This study shall confirm the most optimal placement of the sound system/speakers to not cause significant adverse noise impacts to off-site residential properties. Subsequently, the University shall orient the sound system/speakers consistent with the optimal placement findings of the study.

As evident above, there are many regulations currently in place to be used as tools for enforcement of noise issues. However, staff recognizes that there needs to be better clarification of laws in relation to construction activity, residential property maintenance, commercial activities and day to day activities.

The proposed noise ordinance will clarify language to allow a broader enforcement of situations that were not an issue when the original noise ordinance was written. The new language includes definitions of terms that are being used in the ordinance. The proposed ordinance also includes the ability to regulate loud noise at specific times by using decibel levels in certain situations which are not addressed by a specific section of the ordinance.

Decibel levels are the means for measuring sound. Surrounding agencies which have noise ordinances are using decibel levels to conduct enforcement that is being met with unsatisfactory results in certain situations. One agency regulates most noises using decibel readings. The trouble with this practice is when a complaint is received, the officer will respond and check the level of noise on a sound meter. If the noise on the sound meter is slightly lower than what is authorized, the noise is allowed to continue. The new ordinance that is being proposed will allow officers to take action on any noise that is offending the peace and quiet of person of ordinary or reasonable sensibilities. Decibels levels are also going to be used to control mechanical equipment such as refrigeration, heating and other type of equipment a commercial establishment may be required to use.

While comparing the current ordinance to the proposed ordinance, staff and the subcommittee believed it would be prudent to clarify powered equipment. The current ordinance only specifies gasoline powered equipment. Staff and the subcommittee recommends that all equipment, regardless if it is gasoline or electric powered, should have the hours of operation regulated. Staff acknowledges that electric powered leaf blowers and similar types of equipment are significantly lower in decibel levels than gasoline powered equipment. However, electric equipment can generate noise which can be disturbing to neighborhoods while being used at inappropriate hours.

Another significant change proposed in the new ordinance is the clarification of residential property maintenance. Over the years, there have been issues where homeowners or property owners were working until late at night on their residence or property. A majority of this type of work did not require a permit and therefore was very difficult to regulate. The proposed ordinance will limit the hours for this type of work to "daytime hours" only as defined in the new ordinance. This modification will allow only the resident or property owner to use their power equipment to maintain their property. They will only be allowed to perform these tasks during the daytime hours.

With the current laws that are in use, the continued enforcement of Conditional Use Permit

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conditions, and the proposed changes to the noise ordinance, staff will have better tools to regulate excessive noise in our community while maintaining the balance between residential and commercial uses.

General Plan/Vision Statement

Creation of an updated noise ordinance addresses the City Council Priority Agenda and furthers General Plan Goals/Policies outlined below:

- 1. "To assure that Belmont will be a balanced community with residences, schools, business, industry and space and facilities for social, recreational and cultural activities in keeping with the present character of the City of Belmont". (1015)
- 2. "To preserve and enhance the attractive, family-oriented and tranquil quality of Belmont's residential neighborhoods". (1015)

Fiscal Impact

None at this time. Establishment of a noise ordinance will likely place additional code enforcement demands on staff time and will require the purchase of decibel readers to perform noise measurement readings in association with potential violations.

Public Contact

Posting of City Council agenda.

Recommendation

It is recommended that the Council discuss and adopt the proposed noise ordinance that has been developed at the direction of Council and the Council appointed subcommittee.

Alternatives

1. Provide alternative direction on preparation of the draft noise ordinance language.

Attachments

- A. Article VIII of the Belmont Municipal Code with old language "struck out" and proposed new language.
- B. Proposed noise ordinance

Respectfully submitted,		
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Staff Contact:

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ATTACHMENT A.

15-100 Declaration of policy

In accordance with adopted goals and policies of the general plan which call for "a noise environment that maintains a healthy living environment; fosters relaxation and recreation; is conducive to the work environment; and provides pleasant living conditions," and calls for "amending the Belmont Municipal Code to limit construction hours and require noise mitigation of construction equipment adjacent to noise sensitive areas." It is the purpose of this article to promote the health, safety and welfare of the public by:

- (1) Declaring construction activity and certain maintenance equipment operation outside of given hours as generating noise and sound levels that are excessive and unreasonable, in accordance with the noise compatibility guidelines in the city's noise element; and
- (2) Prohibiting such excessive and unreasonable noises during those time periods; and
- (3) Authorizing the imposition of special abatement procedures and fines to enforce the city's policies and regulations regarding violations of the provisions herein.

In accordance with adopted goals and policies of the general plan which call for "a noise environment that maintains a healthy living environment; fosters relaxation and recreation; is conducive to the work environment; and provides pleasant living conditions," It is declared to be the policy of the city to protect the peace, health and safety of its citizens from unreasonable noises from all sources including, but not limited to, those specified in this chapter.

15-101 Definitions

(a) "Construction activity noise" shall mean any noise producing activity subject to regulation by a grading permit or building permit including but not limited to start-up of machines or equipment other than automobiles and pickup trucks, delivery of materials or equipment, cleaning or maintenance of machines or equipment, or any hammering, drilling, sawing or similar noise producing construction activity conducted outside of a completely enclosed building or inside of a partially constructed building or building addition.

(b) "Gasoline powered maintenance equipment noise" shall mean any leaf blower, lawnmower, soil turner, trimmer, or similar device powered by fossil fuel.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- (a) "A-Weighting" means a filter network designed to transform a frequency spectrum to that which is heard by the human ear.
- (b) "Construction activities" means the grading, demolition, alteration, repair, remodeling or other improvements of existing or new structures, or property which require any City permit, and the use of powered equipment in connection with such activities.
- (c) "Daytime" means the period from 8 a.m. to sunset, Monday through Friday; and 10 a.m. to sunset, Saturday, Sunday and Holidays
- (d) "Decibel (dB)" means a unit for measuring the amplitude of sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

- (e) "Delivery" means the delivery or pickup or the arrival for delivery or pickup of goods, wares and merchandise by the use of a motorized vehicle, other than an automobile or train.
- (f) "Equivalent-energy level (Leq)" means the level of a steady-state noise that has the same sound energy as a given time-varying noise.
- (g) "Holidays" means the follow days: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving, and Christmas Day.
- (h) "Impulsive sound" means sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of impulsive sounds include explosions, drop impacts and firearm discharge.
- (i) "Multifamily dwelling" means any housing unit where two (2) or more dwellings are separated by a common wall, floor or ceiling, including but not limited to apartments, condominiums and townhouses.
- (j) "Nighttime" means the period outside the hours of "daytime" as herein defined.
- (k) "Noise disturbance" means any source of sound which exceeds the noise limitations permitted in Section 15-102. For purposes of this section sources of sound shall include but not be limited to the following: amplified music, loudspeakers, radios, televisions, stereos, musical instruments, powered toys or models, swimming pools or spas, industrial machinery, manufacturing equipment, pile drivers, air compressors, paint sprayers, motors, pumps, blowers, air conditioners, cooling towers, ventilating fans, fork lifts, loaders, tractors, concerts, mechanical equipment, human voices, electrical appliances, vacuum cleaners, powered equipment, chain saws, beepers, motor vehicles, carpet cleaning vehicles, and attached equipment not operated on a street or highway, etc.
- (1) "Noise level" means the amplitude of sound pressure referenced to twenty (20) micropascals, measured in decibels, using the A-weighting network (for the purposes of this chapter).
- (m) "Noise level measurement" means the procedure of measuring sound consisting of the usage of a precision sound level meter (SLM), as defined in the section, set to "fast" response. If the sound level meter is analog with a VU meter, then the response shall be "slow" unless the noise issue is impulsive. The meter must be calibrated before any measurements and the microphone shall be a minimum of three and one-half (3 1/2) feet from any wall, floor or other large sound reflecting surface. The meter shall be protected from wind or other extraneous noise by the use of screens, shields or other appropriate devices.
- (n) "Precision sound level meter" means a sound pressure level measuring instrument which conforms to the American National Standards Institute (ANSI) specification S1.4 for Type 1 or Type 2 measuring instruments.
- (o) "Powered equipment" means a motorized device (other than a motor vehicle) powered by electricity, batteries or fuel. Powered equipment includes but is not limited to: lawn mowers, hedgers, parking lot sweepers, carpet cleaning vehicles, saws, sanders, motors, pumps, generators, blowers, wood chippers, vacuums, drills and nail guns.
- (p) "Residential property" means any property legally used for a single family or multifamily dwelling as defined in the Belmont Zoning Ordinance.

15-102 Noise limitations

- a) Construction activities are subject to the following regulations:
- (1) Construction activity noise. All construction and related activities which require a city building permit shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. All gasoline powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
- (2) Gasoline powered maintenance equipment noise. All gasoline powered equipment utilized for maintenance activities shall be allowed only between the hours of 8:00 a.m. and sunset, Monday through Friday, and between the hours of 10:00 a.m. and sunset on Saturdays, Sundays, and Holidays. No gasoline powered equipment activities shall be allowed outside of the aforementioned hours. All gasoline-powered equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
- (3) Exceptions. The following activities are not subject to the regulations of this article:
- a. Emergency construction, clean-up, maintenance activities approved by a city department.
- b. Capital improvement projects if the city council, at the time of advertising for bids, allows for a construction schedule which would provide for work outside the hours authorized by this article.
- c. City may respond to emergencies as an appropriate exercise of the police power to protect health, safety and welfare of the citizens and property in the city. The city will, if timing allows, provide notice to properties immediately adjacent to the emergency prior to commencement of this work.
- (a) Except as otherwise permitted in this chapter, any source of sound in excess of the sound level limits set forth in Section 15-102 shall constitute a noise disturbance. For purposes of determining sound levels from any source of sound, sound level measurements shall be made at a point on the receiving property nearest where the sound source at issue generates the highest sound level. Sound level measurements shall be made with a precision sound level meter (Type 1 or 2) set to A-weighting, and "fast" response for fluctuating sound. Slow or fast response may be used for continual sources. For repetitive, impulsive sound, the one (1) second rms maximum level (Lmax) shall be used. For continuous sound, use the average level or Leq. In multifamily residential structures, the microphone shall be placed no closer than three and one-half (3 1/2) feet from the wall through which the source of sound at issue is transmitting. The microphone shall also be placed five (5) feet above the floor regardless of whether the source of sound at issue transmits through the floor, ceiling or wall.
 - (1) For all sources of sound measured from any residential property:
 - (a) "Nighttime" hours 55 dBA
 - (b) "Daytime" hours 65 dBA
- (b) For all sources of sound within a multifamily residential structure transmitting through a common interior partition (wall, floor or ceiling) from one (1) dwelling unit to another:

- (a) "Nighttime" hours 35 dBA
- (b) "Daytime" hours 45 dBA
- (c) For all sources of sound measured from any non-residential property
 - (a) "Nighttime" hours 55 dBA
 - (b) "Daytime" hours -- 65 dBA
- (d) Corrections for character of sound: In the event the alleged offensive noise contains a steady, audible tone, such as a whine, screech, beating, pulsating, throbbing or hum the standards set forth in Section 15-102(a)(1) and (2) shall be reduced by five (5) dB.
- (e) Any and all excessively annoying, loud or unusual noises or vibrations shall be considered a noise disturbance if such noise or noises:
 - (1)Offend the peace and quiet of persons of ordinary or reasonable sensibilities, or
 - (2) Interfere with the comfortable enjoyment of life or property
- (f) Construction activities are subject to the following regulations:
 - (1) Construction activity noise. All construction and related activities, which require a city permit, including the use of powered equipment in connection with such activities, shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and Holidays. All gasoline-powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
- (g) Powered equipment noise. Powered equipment used for non-construction activities, shall be allowed only during daytime hours. No powered equipment shall be allowed outside of the aforementioned hours. All gasoline-powered equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
- (h) It shall be unlawful to create, permit, allow or maintain a noise disturbance in Belmont.

Sec. 15-103. Enforcement.

- (a) Civil penalty for violation. The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this chapter is hereby declared to be unlawful and a public nuisance. The city attorney of said city shall, upon order of the city council, immediately commence action or proceeding for the abatement of, and shall apply to such courts as may have jurisdiction to grant such relief as shall abate, any noise level contrary to the provisions of this chapter. Any noise level exceeding the limits specified in this chapter shall be deemed prima facie evidence of a violation of the provisions of this chapter and are subject to the penalties established below.
- (b) Infraction penalty for violation. Except as specifically stated elsewhere, any violation of the provision of this chapter shall be punishable as an infraction, the penalty for which shall be as follows, after the issuance of one (1) written warning for the first violation:
- (1) A fine of one hundred dollars (\$100.00) for a first violation.
- (2) A fine of two hundred dollars (\$200.00) for a second violation within one (1) year.
- (3) A fine of five hundred dollars (\$500.00) for a third violation within one (1) year.
- (c) Cumulative remedies. The remedies provided herein shall be cumulative and not exclusive.
- (d) Citation authority. Those persons holding the positions of city manager, director of

planning and community development, building official, police officer, or designees thereof, are hereby designated as having citation authority under the provisions of this section for violations established herein.

15-103 Exceptions

The following are exceptions to the noise limitations set forth in Section 15-102.

- (a) Residential Property Maintenance
 - (1) Residential property maintenance that does not involve construction activities as defined in Section 15-102(f) or the use of powered equipment as defined in Section 15-102(g), personally done by residents or property owners to maintain or improve their property, may occur during daytime hours only.
- (b) Deliveries.
 - (1) Deliveries to food retailers and restaurants,
 - (2) Deliveries to other commercial and industrial businesses between the hours of seven (7) a.m. and six (6) p.m. Monday through Friday and between the hours of nine (9) a.m. to five (5) p.m. Saturdays, Sundays and holidays.

Businesses with an active Conditional Use Permit (CUP) which regulate hours of operation must adhere to the approved hours as specified in the CUP

(c) Street Sweeping/Parking Lot Sweeping.

Street sweeping/parking lot sweeping is allowed Monday through Friday between the hours of 5 a.m. to 6 p.m.

- (d) Garbage Collection.
 - (1) Garbage collection times are governed by the City's franchise agreement.
- (e) Conditionally Permitted Activities.
 - (1) In the event that the provisions of this ordinance conflict with any provisions of the Belmont Municipal Code, Belmont Zoning Ordinance, or a valid Conditional Use Permit, those provisions would control.
- (f) Special Events.
 - (1) Any event or use for which a special event permit has been issued by the city that specifically allows noise levels to be exceeded.
- (g) The following activities are not subject to the regulations of this chapter:
 - a. Emergency construction, emergency clean-up, and emergency maintenance activities approved by a city department.
 - b. Capital improvement projects if the city council, at the time of advertising for bids, allows for a construction schedule which would provide for work outside the hours authorized by this article.
 - c. The City may respond to emergencies as an appropriate exercise of the police power to protect health, safety and welfare of the citizens and property in the city. The city will, if timing allows, provide notice to properties immediately adjacent to the emergency prior to commencement of this work.

15-104 Time for compliance

(a) Commercial or industrial uses in existence prior to xx/xx/xx (effective date of ordinance) that require mechanical equipment upgrades or changes to comply with this chapter, shall be granted a six (6) month period within which to comply with provisions of this chapter. Any facility not in compliance by the end of such six (6) month period may apply for a temporary permit to be excluded from the provisions

of this chapter. Staff may grant the permit upon finding that diligent efforts are being made to comply and a firm date that full compliance is provided. Except as provided in subsection (a) of this section, all other operations in existence prior to the date this chapter went into effect shall have three (3) months to comply with the provisions of this chapter or apply for a temporary permit for additional time to comply

15-105 Administration

The provisions of this chapter shall be administered by the Chief of Police and his or her authorized representatives, except where expressly provided otherwise. All other officers and employees of the city shall assist and cooperate in the administration and enforcement of this chapter.

15-106 Violations

Violations of this chapter shall be considered a public nuisance. Violations may be enforced by any civil, administrative or criminal remedies, including but not limited to the provisions of the Belmont Municipal Code Section 1-8 and Chapter 30.

ATTACHMENT B

15-100 Declaration of Policy

In accordance with adopted goals and policies of the general plan which call for "a noise environment that maintains a healthy living environment; fosters relaxation and recreation; is conducive to the work environment; and provides pleasant living conditions," It is declared to be the policy of the city to protect the peace, health and safety of its citizens from unreasonable noises from all sources including, but not limited to, those specified in this chapter.

15-101 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- A. "A-Weighting" means a filter network designed to transform a frequency spectrum to that which is heard by the human ear.
- B. "Construction activities" means the grading, demolition, alteration, repair, remodeling or other improvements of existing or new structures, or property which require any City permit, and the use of powered equipment in connection with such activities.
- C. "Daytime" means the period from 8 a.m. to sunset, Monday through Friday; and 10 a.m. to sunset, Saturday, Sunday and Holidays
- D. Decibel (dB)" means a unit for measuring the amplitude of sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.
- E. "Delivery" means the delivery or pickup or the arrival for delivery or pickup of goods, wares and merchandise by the use of a motorized vehicle, other than an automobile or train.
- F. "Equivalent-energy level (Leq)" means the level of a steady-state noise that has the same sound energy as a given time-varying noise.
- G. "Holidays" means the follow days: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving, and Christmas Day.
- H. "Impulsive sound" means sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of impulsive sounds include explosions, drop impacts and firearm discharge.
- I. "Multifamily dwelling" means any housing unit where two (2) or more dwellings are separated by a common wall, floor or ceiling, including but not limited to apartments, condominiums and townhouses.
- J. "Nighttime" means the period outside the hours of "daytime" as herein defined.
- K. "Noise disturbance" means any source of sound which exceeds the noise limitations permitted in Section 15-102. For purposes of this section sources of sound shall include but not be limited to the following: amplified music, loudspeakers, radios,

televisions, stereos, musical instruments, powered toys or models, swimming pools or spas, industrial machinery, manufacturing equipment, pile drivers, air compressors, paint sprayers, motors, pumps, blowers, air conditioners, cooling towers, ventilating fans, fork lifts, loaders, tractors, concerts, mechanical equipment, human voices, electrical appliances, vacuum cleaners, powered equipment, chain saws, beepers, motor vehicles, carpet cleaning vehicles, and attached equipment not operated on a street or highway, etc.

- L. "Noise level" means the amplitude of sound pressure referenced to twenty (20) micropascals, measured in decibels, using the A-weighting network (for the purposes of this chapter).
- M. "Noise level measurement" means the procedure of measuring sound consisting of the usage of a precision sound level meter (SLM), as defined in the section, set to "fast" response. If the sound level meter is analog with a VU meter, then the response shall be "slow" unless the noise issue is impulsive. The meter must be calibrated before measurements and the microphone shall be a minimum of three and one-half (3 feet from any wall, floor or other large sound reflecting surface. The meter shall protected from wind or other extraneous noise by the use of screens, shields or other appropriate devices.
- N. "Precision sound level meter" means a sound pressure level measuring instrument which conforms to the American National Standards Institute (ANSI) specification S1.4 for Type 1 or Type 2 measuring instruments.
- O. "Powered equipment" means a motorized device (other than a motor vehicle) powered by electricity, batteries or fuel. Powered equipment includes but is not limited to: lawn mowers, hedgers, parking lot sweepers, carpet cleaning vehicles, saws, sanders, motors, pumps, generators, blowers, wood chippers, vacuums, drills and nail guns.
- P. "Residential property" means any property legally used for a single family or multifamily dwelling as defined in the Belmont Zoning Ordinance.

15-102 Noise limitations

- A. Except as otherwise permitted in this chapter, any source of sound in excess of the sound level limits set forth in Section 15-102 shall constitute a noise disturbance. For purposes of determining sound levels from any source of sound, sound level measurements shall be made at a point on the receiving property nearest where the sound source at issue generates the highest sound level. Sound level measurements shall be made with a precision sound level meter (Type 1 or 2) set to A-weighting, and "fast" response for fluctuating sound. Slow or fast response may be used for continual sources. For repetitive, impulsive sound, the one (1) second rms maximum level (Lmax) shall be used. For continuous sound, use the average level or Leq. In multifamily residential structures, the microphone shall be placed no closer than three and one-half (3 1/2) feet from the wall through which the source of sound at issue is transmitting. The microphone shall also be placed five (5) feet above the floor regardless of whether the source of sound at issue transmits through the floor, ceiling or wall.
 - (2) For all sources of sound measured from any residential property:
 - (a) "Nighttime" hours 55 dBA
 - (b) "Daytime" hours 65 dBA

- B. For all sources of sound within a multifamily residential structure transmitting through a common interior partition (wall, floor or ceiling) from one (1) dwelling unit to another:
 - (c) "Nighttime" hours 35 dBA
 - (d) "Daytime" hours 45 dBA
- C. For all sources of sound measured from any non-residential property
 - (e) "Nighttime" hours 55 dBA
 - (f) "Daytime" hours -- 65 dBA
- D. Corrections for character of sound: In the event the alleged offensive noise contains a steady, audible tone, such as a whine, screech, beating, pulsating, throbbing or hum the standards set forth in Section 15-102(a)(1) and (2) shall be reduced by five (5) dB.
- E. Any and all excessively annoying, loud or unusual noises or vibrations shall be considered a noise disturbance if such noise or noises:
 - (3)Offend the peace and quiet of persons of ordinary or reasonable sensibilities, or
 - (4) Interfere with the comfortable enjoyment of life or property
- F. Construction activities are subject to the following regulations:
 - (1) Construction activity noise. All construction and related activities, which require a city permit, including the use of powered equipment in connection with such activities, shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and Holidays. All gasoline-powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
- G. Powered equipment noise. Powered equipment used for non-construction activities, shall be allowed only during daytime hours. No powered equipment shall be allowed outside of the aforementioned hours. All gasoline-powered equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
- H. It shall be unlawful to create, permit, allow or maintain a noise disturbance in Belmont.

15-103 Exceptions

The following are exceptions to the noise limitations set forth in Section 15-102.

- A. Residential Property Maintenance
 - (1) Residential property maintenance that does not involve construction activities as defined in Section 15-102(f) or the use of powered equipment as defined in Section 15-102(g), personally done by residents or property owners to maintain or improve their property, may occur during daytime hours only.
- B. Deliveries.
 - (3) Deliveries to food retailers and restaurants,
 - (4) Deliveries to other commercial and industrial businesses between the hours of seven (7) a.m. and six (6) p.m. Monday through Friday and between the hours of nine (9) a.m. to five (5) p.m. Saturdays, Sundays and holidays.

Businesses with an active Conditional Use Permit (CUP) which regulate

hours of operation must adhere to the approved hours as specified in the CUP.

- C. Street Sweeping/Parking Lot Sweeping.

 Street sweeping/parking lot sweeping is allowed Monday through Friday between the hours of 5 a.m. to 6 p.m.
- D. Garbage Collection.
 - (2) Garbage collection times are governed by the City's franchise agreement.
- E. Conditionally Permitted Activities.
 - (2) In the event that the provisions of this ordinance conflict with any provisions of the Belmont Municipal Code, Belmont Zoning Ordinance, or a valid Conditional Use Permit, those provisions would control.
- F. Special Events.
 - (2) Any event or use for which a special event permit has been issued by the city that specifically allows noise levels to be exceeded.
- G. The following activities are not subject to the regulations of this chapter:
 - a. Emergency construction, emergency clean-up, and emergency maintenance activities approved by a city department.
 - b. Capital improvement projects if the city council, at the time of advertising for bids, allows for a construction schedule which would provide for work outside the hours authorized by this article.
 - c. The City may respond to emergencies as an appropriate exercise of the police power to protect health, safety and welfare of the citizens and property in the city. The city will, if timing allows, provide notice to properties immediately adjacent to the emergency prior to commencement of this work.

15-104 Time for compliance

- A. Commercial or industrial uses in existence prior to xx/xx/xx (effective date of ordinance) that require mechanical equipment upgrades or changes to comply with this chapter, shall be granted a six (6) month period within which to comply with provisions of this chapter. Any facility not in compliance by the end of such six (6) month period may apply for a temporary permit to be excluded from the provisions of this chapter. Staff may grant the permit upon finding that diligent efforts are being made to comply and a firm date that full compliance is provided.
- B. Except as provided in subsection (a) of this section, all other operations in existence prior to the date this chapter went into effect shall have three (3) months to comply with the provisions of this chapter or apply for a temporary permit for additional time to comply

15-105 Administration

The provisions of this chapter shall be administered by the Chief of Police and his or her authorized representatives, except where expressly provided otherwise. All other officers and employees of the city shall assist and cooperate in the administration and enforcement of this chapter.

Violations of this chapter shall be considered a public nuisance. Violations may be enforced by any civil, administrative or criminal remedies, including but not limited to the provisions of the Belmont Municipal Code Section 1-8 and Chapter 3